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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO!	CONFIRMATION NO.
10/022,874	12/20/2001	Chika Nakanishi	217408US0CONT	4217
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OBLON, SPI	VAK, MCCLELLAN	ND, MAIER & NEUSTADT, P.C.	EXAMI	NER .
	1940 DUKE STREET ALEXANDRIA, VA 22314		FAN, JANE T	
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1 1	•		DATE MAILED: 06/10/2003	

Please find below and/or attached an Office communication concerning this application or proceeding.

BEST AVAILABLE COPY

Office Action Summary 10/022,874		Application N	Ampliannia)				
Examiner Jane T. Fan Jack T. F		Application N .	Applicant(s)				
Jane T. Fan	Office Action Comment	10/022,874	NAKANISHI ET AL.				
- The MALING DATE of this communication appears on the cover sheet with the correspondence address - Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MALING DATE OF THIS COMMUNICATION. Examinous of many by a symilar based risk approvisor of 3 CPR 1.735(a). In no event, however, may a reply be linely filed Examinous of many by a symilar based of 3 CPR 1.735(a). In no event, however, may a reply be linely filed If the period for reply appedied above is less than thirly (30) days, a reply which hos stablety miled will not be stablety miled will be considered timely. If No period for reply appedied above is less than thirly (30) days, a reply which hos stablety miled will be considered timely. If No period for reply appedied above is less than thirly (30) days, a reply which hos stablety miled will be communication. If No period is the period to reply appedied above is less than the period to reply appedied to the communication. Responsive to communication(s) filed on	Onice Action Summary		Art Unit				
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THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be waited under the provision of 3° CFR i. 13(6). In re-event, however, may a reply be timely filled after SIX (9) MCNTRS from the mealing date of this communication. If NO pend for may be specified under the provision of 3° CFR i. 13(6). In re-event, however, may a reply be timely filed after SIX (9) MCNTRS from the mealing date of this communication. If NO pend for may be specified above, the maximum statusory period will say play and will explic by (9) MCNTRS from the mailing date of this communication. Fabric to reply shift in the set of extended period for reply well, by statute, cases the application to became ARANDONED (35 U.S.C. § 133). Any rophy received by the Office the than the more marks after the mailing date of this communication, even if timely fled, may reduce any statute and provided them splanted time splanted to the specification is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-21 is/are pending in the application. 4a) Of the above claim(s) is/are allowed. 5) Claim(s) 1-21 is/are allowed. 5) Claim(s) 1-21 is/are allowed. 6) Claim(s) 1-21 is/are allowed. 7) Claim(s) are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b objected to by the Examiner. 11) The proposed drawing correction filed on is/are: a) approved b this proposed or the priority documents have been received by the Examiner. 11 approved, corrected drawings are required in reply to this Office action. 12 are onther or declaration is objected to by the Examiner. 13 are onther or declaration is objected to by the Examiner. 14 portion of the foreign are declared from the priority documents have been received. 2 a							
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DETAILED ACTION

1. Applicant's election with traverse of group I, a single disclosed species of example 12 (
the election is appreciated since the undersigned examiner omitted inadvertently) in Paper No. 9
is acknowledged. The traversal is on the ground(s) that the compounds in both groups have a
common core. This is not found persuasive because of the following reason:

The gist of applicants' arguments in traversing the restriction requirement appears to be that the essence of the invention is in having a DHP moiety with no criticality existing with respect to other attaching groups. Thus, they are of the opinion that all their heterocyclic groups encompassed in the generic claims represent one invention. If this is so, then there can be no patentability (all <u>102</u> rejections) of all the claimed compounds encompassed in the generic claims over the art of record, pat. 6,350,766, WO9849144(11/5/98) which teaches the following compound:

It is noted that there is much greater diversity in structures between the compounds encompassed by the claims than between some of these compounds and the art ones. Therefore, to argue that the compounds represent one inventive concept would be inconsistent with arguments with respect to their patentability over the art.

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The requirement is still deemed proper and is therefore made FINAL.

In view of applicants' election, the following subject matter in claims 1-21 has been searched and examined for merits:

All variables, A, B, C, D, Y, F (formula 4) are as defined in claim 1.

Claims 1-21 are objected to as being drawn to Improper Markush groups. Note the above rationale. Deletion of all non-elected subject matter would overcome this objection.

- The following is a quotation of the second paragraph of 35 U.S.C. 112:
 The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
- 3. Claims 1-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The following reasons apply:

- 1. The phrase "dihydropyridine derivatives" is indefinite. "A dihydropyridine" is suggested.
 - 2. The word "general" is indefinite. Deletion of this word is suggested.

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3. The phrases "heteroaryl group", "heteroaryl lower alkyl group" are indefinite. It is not

known what kind of heteroaryl group is intended. These terms encompass fused ring of twenty or

more.

4. Claims 1-7, 10-21 do not read on the elected subject matter. Note the definition of E.

5. The plural term "salts" reads on unsupported mixtures. It should read "a salt "..

6. Claim 20 fail to depend on an earlier claim.

4. Claims 16-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite in

that it fails to point out what is included or excluded by the claim language. This claim is an

omnibus type claim. If applicants intended to have these claims be composition claim, the claim

should recite an effective amount of its intended use and an inert carrier.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Jane T. Fan whose telephone number is 703-308-4705. The

examiner can normally be reached on 7:00am-3:30pm, Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Alan Rotman can be reached on 703-308-4698. The fax phone numbers for the

organization where this application or proceeding is assigned are 703-308-4734 for regular

communications and 703-308-4734 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the receptionist whose telephone number is 703-308-1235.

Jane T. Fan Primary Examiner

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June 6, 2003

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JANE FAN PRIMARY EXAMINER GROUP 1200